

Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.

Received  
SEP 15  
Copyright Royalty Board

ORIGINAL

In the Matter of	)	
	)	
Distribution of 2004, 2005, 2006, 2007, 2008 and 2009 Cable Royalty Funds	)	Docket No. 2012-6 CRB CD 2004- 2009 (Phase II) (REMAND)
	)	
In the Matter of	)	
	)	
Distribution of 1999-2009 Satellite Royalty Funds	)	Docket No. 2012-7 CRB SD 1999- 2009 (Phase II) (REMAND)
	)	

**INDEPENDENT PRODUCERS GROUP'S FOURTH MOTION FOR  
MODIFICATION OF MARCH 13, 2015 ORDER**

Worldwide Subsidy Group LLC (a Texas limited liability company) dba  
Independent Producers Group ("IPG") hereby submits its "Fourth Motion for  
Modification of March 13, 2015 Order".

**PROCEDURAL HISTORY**

At page 33-35 of the *Memorandum Opinion and Ruling on Validity and  
Categorization of Claims* issued on March 13, 2015, the Judges dismissed the 2008  
satellite claim of Willie Wilson Productions on the grounds that such entity was

not identified in the 2008 satellite claim filed by IPG.<sup>1</sup> In fact, although the Judges ruled that Willie Wilson Productions was not identified in the Exhibit A attached to the 2008 satellite joint claim filed by IPG, IPG noted that Willie Wilson Productions was identified within the primary pages of the joint claim, and its program “Singsation!” utilized as one of the examples of retransmission. Such demonstrable fact was noted in the Order by the Judges. See Order at fn. 5; Exh. IPG-P-062.<sup>2</sup>

On August 30, 2016, the Judges issued their *Order Regarding Attempted Amendment of 2013 Joint Claim by Intermediary Copyright Royalty Services*, in Case no. 14-CRB-0010 CD (2010-13). Therein, the Judges describe an amendment to the 2013 cable claim filed by Intermediary Copyright Royalty Services (“Intermediary”) in order to expressly include Zero Point Zero

---

<sup>1</sup> See also, Exh. A-1 to Order, at p. 36. In a related ruling, the Judges determined that the Willie Wilson Productions’ program “Singsation!” should be appropriately characterized as in the program suppliers category, not the devotional programming category. See Order at pp. 43-44.

<sup>2</sup> Distribution Order, fn. 5: “In his testimony, Mr. Galaz pointed out that one of these claimants, Willie Wilson Productions, Inc., and its program “*Singsation!*,” is cited on page 2 of the claim form as an example of a program that had been retransmitted by satellite during the royalty year. See 12/15/14 Tr. at 199-200 (Galaz); Ex. 302.”

Production, Inc. to its joint claim.<sup>3</sup> Specifically, Intermediary indicated that it failed to include Zero Point Zero Production, Inc. on its attached list of claimants, but noted that such entity was listed and identified as the owner of the exemplar program in such 2013 cable joint claim. Accordingly, the Judges granted the amendment to expressly include Zero Point Zero Production, Inc. and provided the basis for such ruling:

“[A]s counsel listed ZPZ as the copyright owner of an exemplar retransmission, the Copyright Royalty Judges (Judges) accept that listing as actual knowledge of the ZPZ 2013 cable royalty claim.”

## **ARGUMENT**

### **A. THE JUDGES RECENT RULING PRESENTS FACTS INDISTINGUISHABLE FROM THOSE PRESENTED BY IPG’S 2008 SATELLITE CLAIM.**

The facts by which the Judges most recently accepted the 2013 cable claim of Zero Point Zero Production, Inc. are indistinguishable from the facts that were presented by IPG in defense of the challenge to the 2008 satellite claim of Willie Wilson Productions. In both circumstances, the claimant was

---

<sup>3</sup> Although the amendment relates to claims currently being addressed in active proceedings, the proposed amendment was not served on Multigroup Claimants, a participant in the 2010-2013 cable proceedings.

not included in the exhibit attached to the joint claim, and in both circumstances the claimant was nevertheless identified as the owner of one of the programs cited as an exemplar broadcast.

**B. IPG’S MOTION IS BASED ON THE “INTERVENING CHANGE IN CONTROLLING LAW” AND THE AVOIDANCE OF “MANIFEST INJUSTICE”.**

IPG’s motion is, effectively, a motion for reconsideration of the Memorandum Opinion, to the extent such order dismissed the 2008 satellite claim of Willie Wilson Productions. Motions for reconsideration of interlocutory orders may be granted where “(1) there has been an intervening change in controlling law; (2) new evidence is available; or (3) there is a need to correct a clear error or prevent a manifest injustice.” Order Denying IPG Motion for Clarification and Reconsideration of Preliminary Hearing Order Relating to Claims Challenged by MPAA, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at 1-2 (May 23, 2013)(cites omitted).

The *Order Regarding Attempted Amendment of 2013 Joint Claim by Intermediary Copyright Royalty Services* was issued on August 30, 2016, and IPG counsel immediately recognized its significance. As is evident from the divergence of resolution presented between the situation presented by IPG and the situation presented by Intermediary, there has evidently been “an intervening

change in controlling law". Manifest injustice will evidently result if the Judges dismiss the 2008 satellite claim of Willie Wilson Productions while allowing similarly situated claims, such as that of Zero Point Zero Production, Inc., to stand.

### **CONCLUSION**

For the reasons set forth herein, IPG hereby moves the Judges to modify their March 13, 2015 Order, and reinstate the 2008 satellite claim of Willie Wilson Productions.

DATED: September 14, 2016

\_\_\_\_\_/s/\_\_\_\_\_  
Brian D. Boydston, Esq.  
PICK & BOYDSTON, LLP  
10786 Le Conte Ave.  
Los Angeles, California 90024  
Telephone: (213)624-1996  
Facsimile: (213)624-9073  
Email: brianb@ix.netcom.com

Attorneys for Independent Producers  
Group

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of September, 2016, a copy of the foregoing was sent by electronic mail to the parties listed on the attached Service List.

\_\_\_\_\_/s/\_\_\_\_\_  
Brian D. Boydston

### **MPAA REPRESENTED PROGRAM SUPPLIERS**

Gregory O. Olaniran, Esq.  
Lucy Holmes Plovnick Esq.  
Mitchell, Silberberg & Knupp LLP  
1818 N Street, N.W., 8<sup>th</sup> Floor  
Washington, D.C. 20036

### **SETTLING DEVOTIONAL CLAIMANTS:**

Clifford M. Harrington  
Matthew MacLean  
Pillsbury, Winthrop, et al.  
P.O. Box 57197  
Washington, D.C. 20036-9997